

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10383 HOUSE RESOURCES

Amendment 2 CSHB216 (Rep. Masek)

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Renumber accordingly

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22-LS0774L
Utermohle
4/6/01

CS FOR HOUSE BILL NO. 216(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RESOURCES COMMITTEE

A BILL
FOR AN ACT ENTITLED

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2 and to meetings of the Board of Fisheries."

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HB216

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Search text: pink salmon
Collection: ken_2000 2/100



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CLARION

Web posted Tuesday, August 22, 2000

Pink fishery could be considered today

By DOUG LOSHBAUGH
Peninsula Clarion

The Board of Fisheries could consider today whether to give upper Cook Inlet commercial fishers the chance to harvest a bumper run of pink salmon.

The United Cook Inlet Drift Association has been asking the Department of Fish and Game since Aug. 9 to reopen commercial fishing to take advantage of the bumper run of pink salmon, said Bob Merchant, the group's president.

That idea surfaced again Friday, when the head of Gov. Tony Knowles' Disaster Policy Cabinet visited Soldotna to hear how this year's dismal sockeye salmon run has affected the Kenai Peninsula and how the state can help.

"Let us go fishing. I could be fishing silvers, humpies and dogs right now and not have to come in here and beg for money," Homer drift skipper Wes Humbyrd told Maj. Gen. Phil Oates, head of the disaster team.

"We can't fish anything but sockeyes anymore. We used to make ends meet if at least we could fish something besides sockeyes later on."

Oates asked Jeff Fox, area biologist for the Division of Commercial Fisheries, to call Department of Fish and Game Commissioner Frank Rue. Returning, Fox said Rue could open commercial fishing, but would not.

"The reason is, we're dealing with pinks and chums vs. silvers that are allocated to someone else," Fox said.

'We went to Fish and Game and asked for emergency order authority because there was a huge run of fish coming in. The time to do it is way past.'

--Bob Merchant, president of United Cook Inlet Drift Association

0208H

interviewed by JOURNALIST NAME, AKA NAME.

He said Rue advised commercial fishers to petition the board. Friday afternoon, setnet fisher Paul Shadura and driftnet skipper Steve Tvenstrup did just that.

Their petition asks the board to eliminate the Aug. 7 season closure for eastern inlet setnetters and the Aug. 9 closure for driftnetters, allow fishing for pink and chum salmon during the regularly scheduled weekly fishing periods and authorize the Department of Fish and Game to authorize one additional period each week by emergency order.

Diana Cote, executive director of the Board of Fisheries, said she faxed the petition to board members Monday morning. She planned to send them information about stock status, run timing and what is happening now on Cook Inlet as soon as she received that from Fish and Game.

Then, board members will vote whether the petition meets the criteria for an emergency meeting.

The criteria define an emergency as an unforeseen event that threatens a fish or game resource, or an unforeseen situation where a biologically allowable harvest would be precluded by a delay in regulatory action, and the resource would be unavailable in the future.

Cote said that if the board agrees to meet, she expects to have teleconference sites in Soldotna, Anchorage and Juneau where the public can listen. The board would not take testimony, she said.

If it agrees to change the regulations, it could do so for this season only, until its regular fall 2001 meeting on Cook Inlet issues or permanently.

"Are there fish surplus to escapement needs? Yes," Fox said. "Do they have to do something quickly if they're going to do it? Yes."

The pink salmon run usually peaks about Aug. 15, he said. The peaks of the chum and coho runs likely also have passed.

Board chairman Dan Coffey said he wants to see Fish and Game's analysis before he casts his vote.

"I don't know anything about the abundance of pinks, or if you don't have a lot of chums, how you avoid harvesting them if you harvest pinks," he said.

Coffey said regulations the board adopted in February 1999 ban a commercial fishery for Cook Inlet pink salmon until there is a pink salmon management plan.

Fish and Game has no means to count Cook Inlet pinks and chums, he

3
said.

"We want management plans so that we don't fish strong stocks to the detriment of weak stocks," he said. "My question is, where is the management plan we talked about 18 months ago? We still don't have enumerators. The only information we have is anecdotal. We see lots of jumpers. My question is, where is the information? I want that data from the department."

It long has been known that even-year upper inlet pink salmon runs are strong, he said, so it is legitimate to ask whether the present situation is an emergency.

He also questioned why the emergency petition did not come until Friday.

Fox said that before the board set the Aug. 9 closure, 30 to 50 driftnet boats used to fish until early September. When the sockeye run was very weak, more boats would fish late.

Now, though, many drift fishers already have pulled their boats from the water.

"Meanwhile, you're only looking at making a few hundred dollars a day past expenses," Fox said. "You put four or five of those together, and you've made \$1,000."

Merchant guessed that just 10 or 20 boats would fish pinks, now. Many processors already have laid off their crews.

"That's why we tried to get this done on the 9th," he said. "We went to Fish and Game and asked for emergency order authority because there was a huge run of fish coming in. The time to do it is way past."

Merchant said UCIDA asked Fish and Game first because its members did not believe there was time to petition the board. Hundreds of thousands of pink salmon can enter the rivers in a single day, and there is no time call seven Board of Fisheries members, he said.

"That's why the commissioner has the statutory authority to open it," he said.

UCIDA members did not believe reopening the commercial fishery would conflict with the board's allocation of cohos to sport fishers, since the strong run of cohos should sustain the incidental take by drift fishers targeting pinks, Merchant said.

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pitchfork tossing the carcasses back into the water.

Bower, a former member of the state Board of Fisheries, advocates fertilizing the river with dead fish. On Friday he was sounding a lot like Martha Stewart: "When I hit 'em with a pitchfork, the flesh breaks out and clouds the water, and that's a good thing, because of the nutrients it's putting in the water."

Research by the U.S. Forest Service's Pacific Northwest Research Station in Juneau suggests that decomposing salmon play a key role in maintaining a healthy fishery. They promote the growth of algae and bacteria, which feed aquatic insects, which in turn feed juvenile salmon. The carcasses also feed bears, eagles and other animals, and fertilize shore plants that shelter young fish.

But there's no denying the smell. Meehan said her family's just waiting for freeze-up to provide some relief.

"We laugh about paying for this fine riverfront property," she said.

Discuss this story in our Discussion Forum



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HB 216



CITY & BOROUGH of YAKUTAT

P.O. Box 160
Yakutat, Alaska 99689
Phone (907) 784-3323
Fax (907) 784-3281

April, 6, 2001

United Fishermen of Alaska
211 Fourth Street Suite 110
Juneau, AK 9908-1143

ATTN :Jerry

VIA FAX 907-463-2545

At the Borough Assembly of April 3, 2001, motion was made and seconded to support House Bill 216. We would also like to express our appreciation for you work regarding this matter.

Sincerely,

A handwritten signature in cursive script that reads "Tom Maloney".

Tom Maloney
Mayor

FISCAL NOTE

**STATE OF ALASKA
2001 LEGISLATIVE SESSION**

Fiscal Note Number: _____
 Bill Version: HB 222
 () Publish Date: _____
 Dept. Affected: Natural Resources
 BRU: Minerals, Land & Water Dev
 Component: Claims, Permits & Lease
 Component Number: 2460

Revision Date/Time (Note if correction): _____
 Title: An Act relating to annual rental fees for
mining claims
 Sponsor: Fate, Foster, and Wilson
 Requester: (H) RES

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services	48.0	32.0	32.0	32.0	32.0	32.0
Travel						
Contractual	24.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	72.0	32.0	32.0	32.0	32.0	32.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	(90.2)	*(100.0+)	*(100.0+)	*(100.0+)	*(100.0+)	*(100.0+)
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	72.0	32.0	32.0	32.0	32.0	32.0
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	72.0	32.0	32.0	32.0	32.0	32.0

Estimate of any current year (FY2001) cost: None

Check this box if funding for this bill is included in the Governor's FY2002 budget proposal: []

POSITIONS

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The \$48.0 in personal services for FY 2002 is to perform regulation, form and factsheet amendments and fund a half-time Natural Resource Officer I position to assist with the increased processing of new locations that would be staked from abandoned locations that previously had a higher rental. \$4.0 contractual would pay for public notices and reprinting of forms, factsheets and regulations for locators' use. The \$32.0 in FY 2003-2007 is necessary for this position to adjudicate and process the increased number of locations following abandonment and re-location, to track the different types of claims, and to continue to track the differences in claim type by owner. The remaining contractual (Continued)

Prepared by: Bob Loeffler Phone 269-8600
 Division: Mining, Land and Water Date/Time 08-Apr-01
 Approved by: Pat Pourchot Date 09-Apr-01
 Agency: Natural Resources

For distribution information, call the Governor's Legislative Office

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CORRECTION

THE FOLLOWING DOCUMENT(S)
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ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services
Department of Education & Early Development
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monies for FY 2002 (\$20.0) would fund mainframe programming work to amend the DNR computerized land records and billing system, which automatically calculates mining rental fees and mails billing notices. Changes would be needed to compute rentals based on locator, age of location, and total acres under control of a single owner.

The change in revenue for FY 2002 is calculated based on records for last year showing that 3,778 state mining locations less than five years old were held by locators with 50 or fewer locations. If the rental on these 3,778 locations were \$1 per location (\$.025 per acre) instead of the current \$25, the state would collect \$90,672 less in rental revenue.

*The revenue change (loss) shown for FY 2002 could be expected to increase over time as locators become familiar with the bill's provisions. Higher-rental locations would likely be abandoned and relocated to qualify for the reduced rental, and locators with more than 50 locations would reorganize them under different ownership arrangements. Although difficult to estimate, total state revenue losses could approach half a million dollars annually.

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20 commissioner concurs in the determination of the board that a fishery conservation
21 issue exists and that the issue cannot be resolved under current regulations, (2) correct
22 an error in a regulation adopted by the board, or (3) address an unforeseen
23 consequence on a fishery of a regulation adopted by the board. The board may not
24 consider a request for an amendment of an adopted agenda unless the request for the
25 amendment is accompanied by substantial evidence that the request complies with this
26 subsection and the regulations adopted by the board.

HB216

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CLARION

Web posted Tuesday, August 22, 2000

Pink fishery could be considered today

By DOUG LOSHBAUGH
Peninsula Clarion

The Board of Fisheries could consider today whether to give upper Cook Inlet commercial fishers the chance to harvest a bumper run of pink salmon.

The United Cook Inlet Drift Association has been asking the Department of Fish and Game since Aug. 9 to reopen commercial fishing to take advantage of the bumper run of pink salmon, said Bob Merchant, the group's president.

That idea surfaced again Friday, when the head of Gov. Tony Knowles' Disaster Policy Cabinet visited Soldotna to hear how this year's dismal sockeye salmon run has affected the Kenai Peninsula and how the state can help.

'We went to Fish and Game and asked for emergency order authority because there was a huge run of fish coming in. The time to do it is way past.'

—Bob Merchant, president of United Cook Inlet Drift Association

"Let us go fishing. I could be fishing silvers, humpies and dogs right now and not have to come in here and beg for money," Homer drift skipper Wes Humbyrd told Maj. Gen. Phil Oates, head of the disaster team.

"We can't fish anything but sockeyes anymore. We used to make ends meet if at least we could fish something besides sockeyes later on."

Oates asked Jeff Fox, area biologist for the Division of Commercial Fisheries, to call Department of Fish and Game Commissioner Frank Rue. Returning, Fox said Rue could open commercial fishing, but would not.

"The reason is, we're dealing with pinks and chums vs. silvers that are allocated to someone else," Fox said

08/22/01

He said Rue advised commercial fishers to petition the board. Friday afternoon, setnet fisher Paul Shadura and driftnet skipper Steve Tvenstrup did just that.

Their petition asks the board to eliminate the Aug. 7 season closure for eastern inlet setnetters and the Aug. 9 closure for driftnetters, allow fishing for pink and chum salmon during the regularly scheduled weekly fishing periods and authorize the Department of Fish and Game to authorize one additional period each week by emergency order.

Diana Cote, executive director of the Board of Fisheries, said she faxed the petition to board members Monday morning. She planned to send them information about stock status, run timing and what is happening now on Cook Inlet as soon as she received that from Fish and Game.

Then, board members will vote whether the petition meets the criteria for an emergency meeting.

The criteria define an emergency as an unforeseen event that threatens a fish or game resource, or an unforeseen situation where a biologically allowable harvest would be precluded by a delay in regulatory action, and the resource would be unavailable in the future.

Cote said that if the board agrees to meet, she expects to have teleconference sites in Soldotna, Anchorage and Juneau where the public can listen. The board would not take testimony, she said.

If it agrees to change the regulations, it could do so for this season only, until its regular fall 2001 meeting on Cook Inlet issues or permanently.

"Are there fish surplus to escapement needs? Yes," Fox said. "Do they have to do something quickly if they're going to do it? Yes."

The pink salmon run usually peaks about Aug. 15, he said. The peaks of the chum and coho runs likely also have passed.

Board chairman Dan Coffey said he wants to see Fish and Game's analysis before he casts his vote.

"I don't know anything about the abundance of pinks, or if you don't have a lot of chums, how you avoid harvesting them if you harvest pinks," he said.

Coffey said regulations the board adopted in February 1999 ban a commercial fishery for Cook Inlet pink salmon until there is a pink salmon management plan.

Fish and Game has no means to count Cook Inlet pinks and chums, he

7
said.

"We want management plans so that we don't fish strong stocks to the detriment of weak stocks," he said. "My question is, where is the management plan we talked about 18 months ago? We still don't have enumerators. The only information we have is anecdotal. We see lots of jumpers. My question is, where is the information? I want that data from the department."

It long has been known that even-year upper inlet pink salmon runs are strong, he said, so it is legitimate to ask whether the present situation is an emergency.

He also questioned why the emergency petition did not come until Friday.

Fox said that before the board set the Aug. 9 closure, 30 to 50 driftnet boats used to fish until early September. When the sockeye run was very weak, more boats would fish late.

Now, though, many drift fishers already have pulled their boats from the water.

"Meanwhile, you're only looking at making a few hundred dollars a day past expenses," Fox said. "You put four or five of those together, and you've made \$1,000."

Merchant guessed that just 10 or 20 boats would fish pinks, now. Many processors already have laid off their crews.

"That's why we tried to get this done on the 9th," he said. "We went to Fish and Game and asked for emergency order authority because there was a huge run of fish coming in. The time to do it is way past."

Merchant said UCIDA asked Fish and Game first because its members did not believe there was time to petition the board. Hundreds of thousands of pink salmon can enter the rivers in a single day, and there is no time call seven Board of Fisheries members, he said.

"That's why the commissioner has the statutory authority to open it," he said.

UCIDA members did not believe reopening the commercial fishery would conflict with the board's allocation of cohos to sport fishers, since the strong run of cohos should sustain the incidental take by drift fishers targeting pinks, Merchant said.

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pitchfork tossing the carcasses back into the water.

Bower, a former member of the state Board of Fisheries, advocates fertilizing the river with dead fish. On Friday he was sounding a lot like Martha Stewart: "When I hit 'em with a pitchfork, the flesh breaks out and clouds the water, and that's a good thing, because of the nutrients it's putting in the water."

Research by the U.S. Forest Service's Pacific Northwest Research Station in Juneau suggests that decomposing salmon play a key role in maintaining a healthy fishery. They promote the growth of algae and bacteria, which feed aquatic insects, which in turn feed juvenile salmon. The carcasses also feed bears, eagles and other animals, and fertilize shore plants that shelter young fish.

But there's no denying the smell. Meehan said her family's just waiting for freeze-up to provide some relief.

"We laugh about paying for this fine riverfront property," she said.

Discuss this story in our Discussion Forum



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HB 216



CITY & BOROUGH of YAKUTAT

P.O. Box 160
Yakutat, Alaska 99689
Phone (907) 784-3323
Fax (907) 784-3281

April, 6, 2001

United Fishermen of Alaska
211 Fourth Street Suite 110
Juneau, AK 9908-1143

ATTN :Jerry

VIA FAX 907-463-2545

At the Borough Assembly of April 3, 2001, motion was made and seconded to support House Bill 216. We would also like to express our appreciation for your work regarding this matter.

Sincerely,

A handwritten signature in cursive script that reads "Tom Maloney".

Tom Maloney
Mayor

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 216
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
 Title: Relating to emergency order authority of the BRU: Commissioners Office
commissioner of fish and game Component: Commissioners Office
 Sponsor: House Resources Committee
 Requester: House Resources Committee Component Number: 2175

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The impact of adoption of HB 216 on the department is difficult to quantify. It is unknown how many requests to supersede regulations or management plans may come to the commissioner, how complicated the issues involved might be, and how many of the requests might be approved or denied. The Commissioner's Office, the Division of Commercial Fisheries, the Division of Sport Fish, and the Boards Support Section may all have additional demands placed upon them to properly evaluate requests and build a record for defending actions taken.

Prepared by: Gordy Williams Phone 465-6143
 Division: Commissioners Office Date/Time 4/2/01 9:00 AM
 Approved by: Commissioner Frank Rue Date 04/02/2001
 Agency: Department of Fish and Game

For distribution information, call the Governor's Legislative Office

Bill History/Action Display



BILL: HB 216 SHORT TITLE: BD OF FISHERIES MEETINGS/EMERGENCY ORDERS
 BILL VERSION:
 SPONSOR(S): RESOURCES
 CURRENT STATUS: (H) RES STATUS DATE: 03/27/01
 HEARING: (H) RES Apr 02 1:00 PM CAPITOL 124

TITLE: "An Act relating to the emergency order authority of the commissioner of fish and game and to meetings of the Board of Fisheries."

[Full Text](#)

No Fiscal Notes Available

[Committee Action with Bill History](#)

Jrn-Date	Jrn-Page	Action
03/26/01	0730	(H) READ THE FIRST TIME - REFERRALS
03/26/01	0730	(H) FSH, RES
03/27/01	0746	(H) FSH REFERRAL WAIVED
03/27/01	0746	(H) REFERRED TO RESOURCES

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Bill Root: [Display Bill Root](#)

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UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 112
Juneau, Alaska 99801
907/586-2820
Fax: 907/463-2545
E-Mail: ufa@alaska.net

April 2, 2001

Representative Drew Scalzi
Co-Chair, House Resources Committee
Alaska State House of Representatives
State Capitol, Interdepartmental Mail Stop 3100
Juneau, AK 99801-1182

Dear Representative Scalzi,

United Fishermen of Alaska supports House Bill 216 by the House Resources Committee.

Section 2 clarifies the existing authority of the Commissioner of Fish and Game to respond in a timely and responsible manner to new information or developing situations in a fishery.

Section 3 clarifies the Board of Fisheries regulatory language concerning out-of-cycle agenda procedures. The Department of Fish and Game is charged with providing the scientific basis for out-of-cycle considerations; after all, they are the biologists and scientists most knowledgeable of the fisheries. This section brings a higher standard to determine a conservation problem, by adding the requirement of concurrence with ADF&G to determine a legitimate conservation concern.

Sincerely,

Thomas M. Gemmell
Tom Gemmell
Executive Director

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Longline Fishermen's Association • Alaska Trollers Association • Bristol Bay Driftnetters Association • Concerned Area "M" Fishermen
Cook Inlet Aquaculture Association • Cordova District Fishermen United • Kenai Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association • Kodiak Seiners Association
North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association • Northwest Selnelters Association • Peninsula Marketing Association
Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association • Seafood Producers Cooperative
United Alaska Salmon Association • Southern Southeast Regional Aquaculture Association • United Cook Inlet Drift Association • United Southeast Alaska Gillnetters



ALASKA STATE LEGISLATURE

REPRESENTATIVE DREW SCALZI
State Capitol, Juneau
Alaska 99801-1182

OFFICIAL BUSINESS

(907) 465-2689; (800) 665-2689

Fax: (907) 465-3472

Email: Representative_Drew_Scalzi@legis.state.ak.us

SPONSOR STATEMENT

House Bill 216

"An Act relating to the emergency order authority of the Commissioner of Fish and Game and to meetings of the Board of Fisheries."

When the Legislature created the Board of Fisheries, it delegated to it specific rule-making powers. The Legislature protected the limits of these powers by vesting the Department of Fish and Game with statutes that guaranteed decision-making based upon sustained yield and conservation. The Legislature provided all the checks and balances through statute to facilitate a responsible public process and protection of the fishery resources.

Through statutes and appropriations, the Legislature enables the Department of Fish and Game to develop the science necessary for identification of conservation and sustained yield issues. Because the Board of Fisheries is comprised of lay members, the Department of Fish and Game is better able to determine critical fishery decisions on a day-to-day basis.

House Bill 216 clarifies two of the areas the Legislature has defined for the Board of Fisheries. The first management tool provides the flexibility necessary for issuing emergency orders during times of surplus harvest. This tool is especially necessary now with the federal co-management system that now exists in our state.

The second change adds the board's own regulatory language of agenda procedures, and adds concurrence with the ADF&G to determine what constitutes a legitimate conservation concern.

Providing the public with an amenable process is what the Legislature intended when it created the Board's governing statutes. The House Resources Committee respectfully requests the support of our colleagues in clarifying this vital public process as outlined in House Bill 216.

April 2, 2001




ALASKA STATE LEGISLATURE
REPRESENTATIVE JOHN HARRIS
STATE CAPITOL 513, JUNEAU, ALASKA 99801-1182 (907) 465-4859

MEMORANDUM

March 29, 2001

To: Representative Drew Scalzi, Co-chair
Representative Beverly Masek, Co-chair
House Resources Committee

From: Representative John Harris 

Subject: HB 216

House Bill 216, clarifying the Legislature's original intent for the operation of the Board of Fisheries, is important legislation to protect the public interest, which I support.

This bill reaffirms the necessity for the Department of Fish and Game to have sufficient flexibility to ensure that all fisheries are managed for sustained yield and that conservation is adequately addressed. I fully support its passage and hope the committee will take positive action on it.

**Letters of Support from:
Alaska Legislators; Fisheries
Associations; Alaskan
fishermen**

Alaska State Legislature
Representative Carl E. Moses



Member
House Finance Committee



SESSION
State Capitol Building
Juneau, Alaska 99801-1182
Phone: (907) 465-4451
800-898-4451
Fax: (907) 465-3445

INTERIM
P.O. Box 730
Unalaska, Alaska 99685
Phone: (907) 581-2275
Fax: (907) 581-4949

March 30, 2001

Rep. Drew Scalzi, Co-Chairman
House Resources Committee
Alaska House of Representatives

Dear Representative Scalzi:


I would like to write in support of House Bill 216, relating to the emergency order authority of the Commissioner of the Department of Fish & Game, and to meetings of the Board of Fisheries.

Clarifying the authority of the commissioner to expeditiously issue emergency orders to protect the state's fisheries resources is long overdue. This bill will enable the commissioner to respond in a timely and responsible fashion to critical situations which would demand faster action than regulations permit, or than would be possible by actions of the Board of Fisheries.

I also appreciate the provision in HB 216 that would allow the Board of Fisheries to amend its agenda to better respond to the public in matters which arise affecting the conservation of the resource, and unforeseen circumstances which fall under the board's area of responsibility.

If I can further substantiate the value of this bill, please contact me.

Sincerely,



Rep. Carl E. Moses
House District 40

STATE OF ALASKA

REPRESENTATIVE
MIKE CHENAULT



Official Business

Interim:
145 Main St. Loop, Second Floor
Kenai, Alaska 99611
(907) 283-7223
Fax: (907) 283-3075

Session:
Capitol Building, Room 432
Juneau, Alaska 99801-1182
(907) 465-3779
Toll Free: (800) 469-3779
Fax: (907) 465-2833

HOUSE OF REPRESENTATIVES

March 30, 2001

The Honorable Drew Scalzi
State Capitol Building Rm. 13
Juneau, Alaska 99801

Dear Representative Scalzi:

One of the most relevant issues on the Kenai Peninsula is how our fishery resources will be best managed. It is necessary to construct a foundation to provide for a stable economy in the fishing industry and to preserve the fish as a future resource.

Through the Legislative process the tools and responsibilities have already been given to the Department of Fish and Game to manage this important Alaska resource. In statutes and through appropriations the legislature has empowered the Department of Fish and Game to develop the science necessary for conservation and sustained yield issues. The Department of Fish and Game is therefore better able to assess the critical fishery decisions on a day to day basis.

The intent of the Legislature through HB 216 will more clearly define the role of the Board of Fisheries and its limitations. Section (2) addresses the need to protect and facilitate a responsive public process, which I strongly support.

I support the assertions represented in HB 216 and would like to encourage the legislature to give their support as well.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Chenault".

Representative Mike Chenault

cc: Resources Committee
Representative Bev Masek, Co-chair



Alaska State Legislature

Representative Peggy Wilson
Putting Alaska's Families First

DATE: March 30, 2001

TO: Representative Drew Scalzi

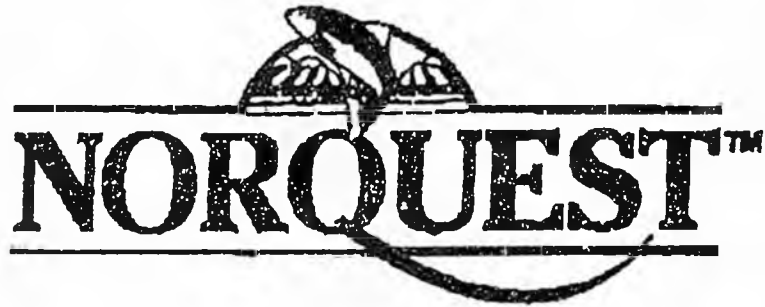
FROM: Representative Peggy Wilson, Co-Chair *PL*
Representative Gary Stevens, Co-Chair *GS*
Special Committee on Fisheries

RE: HB 216

As Co-chairs of the House Special Committee on Fisheries, we are writing this letter in support of HB 216.

This bill clarifies existing statute on Emergency Orders for in-season management for sustained yield.

It also addresses the process by which the Board of Fisheries' agenda may be changed. This enhances the public process and helps the board better respond to legitimate conservation issues.



Norquest Seafoods
545 Railroad Ave.

P.O. Box 260 Cordova AK 99574

PHONE: (907) 424-5390

FAX: (907) 424-5395

Dear Sirs;

House Bill #216, needs to be supported and passed, as you must be aware the Board of Fish forced the fishers and fishing industry to undergo a long and expensive process to rebut ACR-10. This ACR should never have come before the Board's general meeting process in January, it should have been thrown out last September, but due to certain Board members personal agenda's and their influence this proposal was permitted to enjoy some validation from the board. In doing so the Board took a out of cycle proposal, which was totally unwarranted as a conservation concern by their own definition, and inflict onto the fishermen of Area E and the communities in which they live a very stressful, expensive and time consuming fight. For the fishermen of area E there was never any hope of winning a thing. Only to expose the truth and in so doing protect themselves from a further unwarranted intrusion of the fishery by a few misinformed, misguided individuals whose own agenda's was not in the interest of salmon stock conservation but only to reallocate the resource for their personal gain.

This Board of Fish must be sent a clear message that they are to act appropriately for the public good, there is no place for their own personal agenda's in the board's public process. The process must be used to protect the resource and to correct errors in regulation or the unforeseen impacts of a regulation change. The standard must be held high enough that they be only used to address a conservation concern of such magnitude that the Department, through the Commissioner, determines its legitimacy. If the Board is allowed to continue to act inappropriately, it will continue to impact the public and their communities in a negative fashion. With all the other pressures on the Fishing Industry and the effected communities we must ask you to support H.B.216 and so require of the Board of Fish a Higher standard of professionalism than they have exhibited in the recent past.

Sincerely
William S. Gilbert
Norquest Seafoods
Cordova, Alaska

Cordova District Fishermen United

Celebrating 65 Years of Service to Commercial Fishermen **U** Alaska
P.O. Box 939 Cordova, Alaska 99574 / Telephone (907) 424-3447 / Fax **U** **United** 30

March 28, 2001

House Resources Committee
c/o Co-Chair Representative Drew Scalzi
State Capitol (MS 3100)
Juneau, AK 99801-1182

SENT VIA FACSIMILE TO 907.465.3472

Dear Committee Members,

CDFU represents the fishing fleets of Area E - the Copper River and Prince William Sound. We are--unfortunately--eminently qualified to comment on HB 216 having just rebuffed an ACR accepted by the Alaska Board of Fisheries. The toll that it took on our fishing-dependent community was totally unwarranted and unnecessary. While any out-of-cycle consideration is time-consuming, expensive, destabilizing, and stressful, ACR 10 was particularly so for our industry and community because ADF&G advised the Board unequivocally during its ACR acceptance deliberations that there was absolutely no scientific basis for the alleged conservation concern. We are gratified to see legislation that acknowledges that science should be the guide in determining out-of-cycle considerations, and that ADF&G is the agency charged with providing substantive evidence of that concern.

A predictable public process is necessary to provide for community and industry stability. Out-of-cycle regulatory determinations are very serious and should be considered so by the Board; further, they must be held to a very high standard. When used for other than correction of an error in regulation or the unforeseen impacts of a regulation change, the standard simply must be only to address a conservation concern of such magnitude that the Department, through the Commissioner, determines its legitimacy. Otherwise, ACR's will continue to be used inappropriately, with indiscriminate negative impacts to the affected publics and communities. Fishing economies are already subject to uncontrollable variability. We do not need to add regulatory instability to that list.

We strongly urge your support for HB-216. Please don't hesitate to contact us if we may be of further assistance.

Respectfully,



Sue Aspelund
Executive Director



United Cook Inlet Drift Association

P.O. Box 389 - Kenai, Alaska 99611-0389 ~ (907) 260-9436 ~ fax (907) 260-9438 ~ ucida@kenai.net

March 30, 2001

House Resources Committee
Representative Drew Scalzi, Co-Chair
State Capitol, Room 13
Juneau, Alaska 99801-1182
Fax 465-3472

Dear Chairman Scalzi,

On behalf of the approximately 585 drift fishermen in Cook Inlet, we wish to express our support for HB 216, and further, wish to thank the committee for submitting this timely and necessary bill.

It is our belief that the Commissioner has the authority now and has always had the authority to supercede a regulation or management plan should certain unforeseen circumstances, not previously considered, become known to him. However, there does seem to be some confusion regarding this authority. HB 216 will serve to clarify and end the confusion.

We also believe that in the recent past the Board of Fisheries has used the Agenda Change Request authority to deliberate issues out of cycle by using the conservation criteria, when in fact, the issues turned out to be allocative. Allocative issues are strictly confined to regular three-year cycle meetings, at which, full public participation is possible.

By requiring substantial proof and concurrence from the Commissioner and Department that a conservation concern does exist, the public and the state will save substantial dollars and time, and allocation issues will be debated in the proper forum during regular cycle meetings.

Respectfully yours,

A handwritten signature in cursive script that reads "Bob Merchant".

Bob Merchant
UCIDA President

Sylvia Lange
P.O. Box 135
Cordova, Alaska 99574

March 29, 2001

Fax memo to: 907-465-3472

Subject: In support of HB 216-House Resources Com.-Board of Fish

Dear Representative Scalzi,

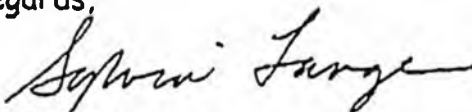
My family has now for at least 3 generations been completely dependent on a healthy and well-regulated salmon harvest of the Copper River. As a commercial fishing family and subsistence user, we have contended with poor runs, raging weather, earthquakes, oil spills, and a market gone south. These things we have little control over. The one thing we can hope to achieve with our State Government is some stability in the regulatory process.

The Board of Fish, when it takes up issues out of cycle in its deliberations and does so without the recommendations of the ADF&G's expert staff, is a hazard that is expensive, unnecessary and foolhardy. It also creates some very hard feelings among those of us in the small coastal communities that once again, the political machine is at work, and we have become the losers, for being a small group of voters.

Alaska's diverse communities and resources require and deserve protection from the hordes.

Thank you for your consideration,

Regards,



Sylvia Lange

Subject: HB 216

Date: Wed, 28 Mar 2001 15:02:38 -0900

From: jean seaton <jsseaton@ptialaska.net>

To: <Representative_Drew_Scalzi@legis.state.ak.us>

Hello:

I am a Copper River commercial fisherman. I started fishing here in 1981 and moved to the Bay in 86 because of the perceived threat to the Copper of allocation battles. I bought back in last year partly because of the BOF management plan.

I would like you to limit the BOF's authority to use ACR's and emergency petitions. I just spent weeks fighting an attempt at back-door reallocation by Chitna Dip-netters with ACR 10. It was gratifyingly voted against unanimously, BUT it sure plays havoc with my fisheries' stability.

I also object to the costs, both to myself and the State, in dealing with out of cycle ACR's without sound science behind them. I want ADFG to be able to decide if there is a biological concern before an ACR is accepted. ADFG are the professionals and that's what we pay them for.

Sincerely,

Scott Seaton

cliff

From: cliff <cliff@concentric.net>
To: <Representative_Drew_Scalzi@legis.state.ak.us>
Sent: Wednesday, March 28, 2001 1:30 PM
Subject: HB 216

Dear Rep. Scalzi,

I'm a Cordova resident commercial fisherman who participates in the Drift gillnet salmon fishery that harvests Copper River salmon as well as those of Prince William sound. This past BOF session caused real undue stress that was completely without merit had certain out of cycle issues not been able to be brought before the board, namely the ACR slipped into the schedule by the China dipnetter's Asen (Stan Bloom's bone to pick). I respectfully request that any issue that is added to the daunting agenda of the BOF be backed by sound scientific data, evidence, or ADF&G recommendation, not the contrary. That issue alone took up so much time and money of not only of com fisherman who would be devastated by it's implication, but the towns and the people that have support interests and businesses that would've been affected by it's implications.

Many of my fleet were so affected by the possibilities implied that business planning was put on hold, thus revenues that could've boosted winter economies both in Cordova and elsewhere never developed.

In my own case, sighting the instability in my primary livelihood, I opted not to have a new boat built, which may make me less competitive for this coming season.

Please seriously consider HB 216 as a sane and rational step towards fostering stability in the industry, economies, and citizens' lives in the towns affected by otherwise halfbrained attempts.

Sincerely, Cliff Ward

3/30/01

[Fwd: HB 216]

Subject: [Fwd: HB 216]

Date: Fri, 30 Mar 2001 09:25:25 -0900

From: Representative Drew Scalzi <Representative_Drew_Scalzi@legis.state.ak.us>

To: Pat Hartley <Pat_Hartley@legis.state.ak.us>

Subject: HB 216

Date: Fri, 30 Mar 2001 09:15:10 -0900

From: "Robert B. Carroll" <RCarroll@anvilcorp.com>

To: Representative_Drew_Scalzi@legis.state.ak.us

Dear Sir

I am writing to you about HB 216. I am strongly in favor of it. Anything that can limit the power of the Board of Fish is needed. They have become more and more a financial and stressful burden to my family and I. With them taking a look at ACR's out of cycle it causes great financial burdens on my and every family affected to defend our positions on these issues. It also seems to be a waste of time when they decide to look at out of cycle ACR's with absolutely no scientific backup. I strongly urge you to support this bill.

Robert, Kylinn and Kassidi Carroll

[Fwd: HB 216]

Subject: [Fwd: HB 216]

Date: Mon, 02 Apr 2001 06:17:02 -0900

From: Representative Drew Scalzi <Representative_Drew_Scalzi@legis.state.ak.us>

To: Pat Hartley <Pat_Hartley@legis.state.ak.us>

Subject: HB 216

Date: Sat, 31 Mar 2001 14:30:23 -0900

From: Joan Phillips <phil1565@ptialaska.net>

To: Representative_Drew_Scalzi@legis.state.ak.us

Dear Rep. Scalzi:

I am a resident of Cordova and a commercial fisherman on the Copper River Delta. I am writing to state my support for HB216.

The misuse of the ACR process this winter is ample demonstration of the need to allow the Dept. of Fish and Game, as professionals, to handle conservation emergencies.

Sincerely,

Jeff Phillips
Box 1565
Cordova, Ak. 99574

Subject: [Fwd: Support for HB216]

Date: Mon, 02 Apr 2001 06:17:47 -0900

From: Representative Drew Scalzi <Representative_Drew_Scalzi@legis.state.ak.us>

To: Pat Hartley <Pat_Hartley@legis.state.ak.us>

Subject: Support for HB216

Date: Sun, 01 Apr 2001 22:42:11 -0800

From: "H. Daniel Hull" <dnhull@alaska.net>

To: Representative_Drew_Scalzi@legis.state.ak.us

Representative Scalzi,

I am writing to express strong support for HB 216. I am a Copper River driftgillnet fishermen, and I believe that this bill will greatly improve the BOF decision making process and better serve the interests of the public. It is critically important that the burden of proof for BOF approval of ACRs be credible and of a higher standard than currently exists.

The approval of ACR 10 this past fall, and the subsequent failing of that proposal in January, illustrate the need to protect the public and the public process from frivolous proposals that are not based on real conservation concerns. Stakeholders, fisheries managers, and the general public incur huge and unnecessary costs, in time as well as money, as a result of these kinds of proposals. The people and communities who depend on these resources deserve a more stable and predictable regulatory process. The resources will be better managed, and the interests of the public will be better served by the changes proposed in this bill.

Dan Hull
Anchorage, AK

HB

222

Alaska State Legislature

REPRESENTATIVE
HUGH "BUD" FATE

Mailing Address:

119 N. Cushman, Suite 101

Fairbanks, Alaska 99701

(907) 452-4448

Fax: (907) 456-3346



House Of Representatives

While in session

State Capitol

Juneau, Alaska

99801-1182

(907) 465-4976

Fax: (907) 465-3883

House District 33

HB 222

"An Act relating annual rental fees for mining."

Sponsor: Representative Hugh Fate

I have introduced HB 222 in an effort to provide a Small Miners Incentive Act in order to stimulate resource development.

This act will allow small miners to continually stake land and "prove up" the claim, especially during periods of low mineral prices.

This act clearly defines the eligibility, types of claims, and amounts of acreage involved in this bill.

This bill, by lowering yearly rental fees for the first five years or development (whichever occurs first), will spur small miner involvement. This involvement can lead to large-scale development if the claims warrant such an approach.

Alaska State Legislature

REPRESENTATIVE
HUGH "BUD" FATE

Mailing Address:
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 452-4448
Fax: (907) 456-3346



While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4976
Fax: (907) 465-3883

House District 33

House Of Representatives

House Bill 222

Sectional Analysis

"An Act relating to annual rental fees for mining claims."

This bill provides economic stimulation to small miners in pursuit of resource development.

Section 1 of the bill adds subsections (f) and (g) of AS.38.05.211

- clearly defines reduced fee schedules for the first five years or upon development, whichever occurs first.
- defines the types of mining claims and amounts of acreage eligible under this bill.

HB

232

Alaska State Legislature

REPRESENTATIVE
HUGH "BUD" FATE

Mailing Address
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 452-4448
Fax: (907) 456-3346



House Of Representatives

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4976
Fax: (907) 465-3883

House District 33

Sponsor Statement

HB 232

“An Act permitting state residents to purchase a remote recreational cabin site.”

Sponsor: Representative Hugh Fate

I have introduced HB 232 in an effort to provide land for remote recreational cabin sites. This act will allow state residents to stake state land that is not encumbered and is not a part of any current land disposal program.

This bill defines the eligibility, amounts of acreage allowed, procedures to be followed, and time sequence schedule. HB 232 may place current state land into municipal or borough property tax structures.

Alaska State Legislature

REPRESENTATIVE
HUGH "BUD" FATE

Mailing Address:
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 452-4448
Fax: (907) 456-3346



House Of Representatives

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4976
Fax: (907) 465-3883

House District 33

Sectional Analysis

House Bill 232

“An Act permitting state residents to purchase a remote recreational cabin site.”

This bill provides non-encumbered state land to be placed into a remote recreational cabin site purchase program.

Section 1 of the bill amends AS.38.05 by adding a new section. The new section is AS 38.05.610. It provides the following criteria:

- The commissioner shall sell state land at the request of a prospective purchaser
- State land classified for retention or land selected by a municipality may not be sold under this program
- At the time of application, you must be 18 years old and a state resident for at least one year.
- Purchaser can only stake a maximum of 2.5 acres
- Sets frontage maximum amounts on lakes, rivers or navigable water
- Sets amounts of land to be sold on lakes or river systems
- Sets time sequence and procedures for purchaser
- Sets time limit for commissioner to process the necessary paperwork and issue deed

This bill will provide remote recreational cabin site land and may place the selected land into property tax status in various locations.

Subject: Fate Proposes Selling State Land to Alaskans

Date: Thu, 05 Apr 2001 19:21:34 -0800

From: Dan Saddler <Dan_Saddler@legis.state.ak.us>

Organization: House Majority

To: reps <lsncdrs+housemajlegs@legis.state.ak.us>,
staff <lsncdrs+hmajstaff@legis.state.ak.us>,
media <lsncdrs+media@legis.state.ak.us>,
people <lsncdrs+people@legis.state.ak.us>

Alaska State Legislature
House of Representatives
Representative Hugh Fate

State Capitol, Suite 416
Juneau, AK 99801-1182
Phone: (907) 465-4976
Fax: (907) 465-3883

FOR IMMEDIATE RELEASE: April 5, 2001
CONTACT: Rep. Hugh Fate (907) 465-4976

Fate Proposes Selling State Land to Alaskans

HB 232 Would Open 2.5-Acre Remote Cabin Sites to Residents

(JUNEAU) – Rep. Hugh "Bud" Fate (R-Fairbanks) introduced legislation today that would allow every Alaskan to stake out and purchase a 2.5-acre remote recreational cabin site.

Fate said he introduced House Bill 232 in an effort to open up more of Alaska's outdoors for citizens to enjoy, to bring more land onto public tax rolls and to help stimulate the state economy by encouraging trade in building materials, transportation, real estate and other services.

"There are so many people in the state that have come up to me and said, 'Gee, I wish I could get a place on a lake or a river,'" Fate said. "But they can't. There is almost no place where a private citizen can actually get a piece of property that they can call their own. This bill is intended to try to make that possible."

Under HB 232, each adult Alaskan could select and stake out no more than 2.5 acres of unencumbered state land that was not part of any current or anticipated state, federal or Native land selection. They would then select from a state approved list of surveyors to have the parcel surveyed and its boundaries certified, pay the surveying and recording fees, and then pay the assessed fair market price to the state within two years to win fee simple title to the land.

The bill includes limits on the amount of lake or river frontage allowed in each parcel, and provides that, while family members would be free to stake adjacent land, no one individual could own more than one parcel at a time under this program.


HB 232 would satisfy Alaskans' hunger for personal land; promote more settlement in more areas of the state, bring in more property taxes where sites were inside taxing districts and bring in new revenue to the state through land sales at market prices, Fate said.

Past state land disposal efforts have not been widely successful in part because they limited the land available to certain areas, took more than seven years to transfer ownership, and in many cases offered unattractive land, Fate said. HB 232 would leave the choice to individuals, but would also expect them to bear the costs.

"Everybody I have talked to so far has said they really like this bill," Fate said. "I would expect that many people will take advantage of this bill, should it pass and the governor sign it into law."

###

Broadcasters note: Comments are available on the Majority Actuality Line 1 (800) 478-6540

 fate land 04052001.doc	Name: fate land 04052001.doc Type: Winword File (application/msword) Encoding: base64 Download Status: Not downloaded with message
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Dan Saddler <Dan_Saddler@legis.state.ak.us>

Rec'd 4-22

A M E N D M E N T

OFFERED IN THE HOUSE
TO: CS HB 232

BY REPRESENTATIVE FATE

- 1 Page 3, line 10, following "section":
2 Insert "from lands that were not selected by the state for mineral values and
3 lands having a low mineral potential based on a geophysical survey complete not more
4 than 15 years before the offering,"
5
6 Page 3, Line 22, following "use":
7 Insert ", other than merely transiting over the parcel by any means,"
8
9 Page 3, Line 22-24:
10 Delete "or at least five years of use including two years of active mining under a
11 mining claim, by the person immediately preceding the nomination,"
12 Insert "or that person has held the area under a mining claim, as shown through
13 not less than 5 consecutive years of production royalty reports to the state, on claims that
14 are contiguous with the parcel,"



Alaska State Legislature

Please enter into the record my testimony to the HOUSE RESOURCE
Committee name

Committee on HB 232, dated 4-22-02
Bill/Subject

1 PAGES

Signed: DANA L. OLSON
Testifier

Representing (Optional)
HC-30 BOX 5438 WASILLA, AK 99654
Address

373-4612
Phone number

DANA V. JENSEN
 HC-30 Box 5438
 WASILLA, AK 99654
 April 22, 2002

To House Resources Committee

Comments to HB 232 Remote Recreation ^(cabins site) SALE.
 (defenses AND unconstitutionality assertion)

I am of the belief, that Executive AND
 Legislative to Act concurrently AND jointly
 constitutes A UNLAWFUL interpretation of
 both U.S Constitution AND The Alaska Constitution,
 regarding Authority.

The right to own property must not be U.S. Constitution.
 nationalized by government. (14th Amendment)

In Acting Quasi-judicial, I remind the House Resources
 Committee of prior ~~precedent~~ precedent
 in SB 196 sec 19 ⁽¹⁹⁷¹⁾ (CHASE decision.) IT WAS
 HB that added sec 19. in 1987. (NOT statutory)

A program implementation, AND acting
 quasi-judicial are separate AND distinct
 from each other.

I recognize the means to change Law, is
 by Legislation. The means to change a
 Quasi-judicial decision, must have a Factual
 basis, not merely a program implementation.
 or change without legal basis.

I do not fear your arbitrariness, it only
 makes AND forces me to grow more.

... I live in thought that the American dream
... still lives on. In law, one doesn't engage
... in conflicts until it serves ~~the~~ one's ~~best~~
... best interest to do so.

... I suggest a fiscal note for this program's ^{determinat}
... compatibility to others be added. _{ion}

... I highly suggest, consideration of Alaskan
... property law be a requirement of this
... committee before any movement of this bill.

Sincerely
Dana Olson
April 22, 2002

... attachment
... (D. Olson 17 April 2002 ^{public} comment to SWR)

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

TO DNR Commissioner
AND
Department of Natural Resources

DANA L. OLSON
HC-30 Box 5438
Wasilla, AK 99654
17 April 2002
313-4612

Public Comment ON "Chase" Remote Cabin Program
AND Susitna Area Plan Amendments / Revisions.

Proposed Action

Where the Legislature is proposing changes to the
remote cabin program, I question why the public
comment period should occur before any
changes are made.

04-17-02 P04:52 IN

Scope of Project to be reviewed

When considering the method for disposal
of state land; I disagree that the issue is
only concerned with classification / amendment.
I allege the classifications ^{by} themselves are
meaningless, unless considered in relevant
and consistent reading with AS 38.05.300(a)
"The Commissioner shall classify for surface
use land in areas considered necessary
and proper. The classification of land by themselves
do not comply with the Commissioner required
duties. I allege the DNR Commissioner
has failed to comply with this provision
of law, as there is no factual basis provided
or inferred, in proposed amendments to Final Findings
AND decisions.
Also revision / reclassification must be
based on a factual determination of
public interest.

Changes to method of disposal is not ^A ~~an~~ amendment; it is a revision, AND requires a new determination/finding. Case law present has set DNR policy. I allege the DNR Commissioner lacks authority to change/ implement ^{DNR} contrary to case - presents (estoppel) I allege estoppel defense against DNR AND DNR Commissioner.

Classification must be consistent with 38, 04.010 These ^{are} ~~is~~ new relevant provisions of ^{this} law, not prior considered under the prior findings AND CLASSIFICATIONS. Classification made on the premise of remote may not be relevant anymore. A Factual finding is necessary. A classification itself can not determine the applicability. How can public facilities be determined in a classification? or a method of disposal. How can (38, 04.010 (b) "where development of sources of employment improbable" be determined in either a classification or method of disposal. The ^{Area} SUSTAIN PLAN data is out of date. AND 1970. Comprehensive ^{MSB} PLAN is out of date. Review (97219CU) (DNR A party), where I ~~was~~ allege since DNR ~~never~~ AND MSB never argued that ~~classification~~ Kirk Fairview

Comprehensive PLAN WAS DIFFERENT FROM ANY OTHER MSRB COMPREHENSIVE PLANS, IT CAN BE INFERRED CHASE COMPREHENSIVE PLAN IS A ZONING IMPLEMENTATION PLAN ONLY.

DOT + PF HAS NO REGIONAL TRANSPORTATION PLAN ITSELF, NOR THE ^{AK}RAILROAD. A REVISION IS A NECESSARY COMPONENT FOR THIS DECISION TO DISPOSE OF STATE LAND PURSUANT TO ^{AS} 38.04.010.

AS 38.05.300 CLASSIFICATION OF LAND

I ALLEGE THE SUSITNA AREA PLAN CONTAINS MORE THAN 640 CONTIGUOUS ACRES. FAILURE TO CONSIDER OTHER USE FOR DISPOSAL HAS THE EFFECT OF BEING CLOSED FOR MULTIPLE PURPOSE USE, WITHOUT LEGISLATIVE APPROVAL, IN VIOLATION OF THIS PROVISION OF LAW.

THE CONCEPT OF REMOTE IS A CRITERIA OF WHICH A CLASSIFICATION ^{FAILS} ~~FAILS~~ TO CONSIDER ITS AFFECT ON EXISTING AND PLANNED FOR USES. DNR HAS HAD PRIOR ^{KNOWLEDGE} ~~KNOWLEDGE~~ (LITIGATION) TO DNR. AS 38.95.300 (2) DOES NOT PROVIDE RELIEF, NOR ELIMINATE STATUTORY RESPONSIBILITIES.

CHASE Remote Cabin Staking

I Am requesting a determination of compatibility with 1984 Chase TU Agricultural Standards. I have continuously claimed and defended my interest in ADL 10023 AND ADL 10026.

This project was moot the remote standing as road development may significantly have secondary effects on the above disposal at Chase.

Program (Remote Cabin Staking) Staking Authorization might warrant more Staking Authorizations than proposed in order to offset the need for government to offer services to only a few. MSB Zoning PLAN is... Chase Comprehensive PLAN heavily recognizes the need for more recreational opportunities to utilize the vast resources planned for.

Funding for services is based primarily on number of people. I request more Staking Authorizations, if you go ahead with this project.

Rail Road Bridge is too narrow to provide a means to bring in building supplies resulting in possible risks and trespass on R.R. property and tracks. Thus this project may not be suitable for recreational cabin use, but (year-round settlement) where ^{MAY FOR} _{can visit} ^{EAST}

04-17-02

the issue is not whether a project is located next to a community. As Trapper Creek AND TALKEETNA are community. ~~near~~ ^{across} the river from each other. But a road (Parks Hiway) is the means of which they are connected. Access needs consideration today as well as it did before. Please revise some planning, and provide a means for public participation.

Sincerely
 Linda J. Olson
 17 April 2002

22-LS0791\U
Kurtz
4/4/02

Fate
4.4.02

CS FOR HOUSE BILL NO. 232()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES FATE, Wilson, Foster

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to the disposal of state land by lottery; and relating to sale or lease of**
2 **remote recreational cabin sites."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 38.05.057(a) is amended to read:

5 (a) The commissioner may dispose of land, including land limited to use for
6 agricultural purposes, by lottery. The purchase price of land sold by lottery shall be
7 the fair market value of the land as determined by the commissioner. The
8 commissioner may sell land by lottery for less than the fair market value of the land on
9 a determination that scarcity of land for private use in the area of the land to be sold
10 has resulted in unrealistic land values. The lottery shall be conducted in public by the
11 commissioner. A purchaser selected by lot shall deposit an amount equal to 20 [FIVE]
12 percent of the purchase price within 30 days after receiving notification of the
13 selection.

14 *** Sec. 2.** AS 38.05.125(a) is amended to read:

1 (a) Each contract for the sale, lease, or grant of state land, and each deed to
2 state land, properties, or interest in state land, made under AS 38.05.045 - 38.05.120,
3 38.05.321, 38.05.600, 38.05.810 - 38.05.825, AS 38.08, or AS 38.50, except as
4 provided in AS 38.50.050, is subject to the following reservations: "The party of the
5 first part, Alaska, hereby expressly saves, excepts, and reserves out of the grant hereby
6 made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores,
7 minerals, fissionable materials, geothermal resources, and fossils of every name, kind,
8 or description, and which may be in or upon said land above described, or any part
9 thereof, and the right to explore the same for such oils, gases, coal, ores, minerals,
10 fissionable materials, geothermal resources, and fossils, and it also hereby expressly
11 saves and reserves out of the grant hereby made, unto itself, its lessees, successors,
12 and assigns forever, the right to enter by itself, its or their agents, attorneys, and
13 servants upon said land, or any part or parts thereof, at any and all times for the
14 purpose of opening, developing, drilling, and working mines or wells on these or other
15 land and taking out and removing therefrom all such oils, gases, coal, ores, minerals,
16 fissionable materials, geothermal resources, and fossils, and to that end it further
17 expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and
18 assigns forever, the right by its or their agents, servants, and attorneys at any and all
19 times to erect, construct, maintain, and use all such buildings, machinery, roads,
20 pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such
21 soil, and to remain on said land or any part thereof for the foregoing purposes and to
22 occupy as much of said land as may be necessary or convenient for such purposes
23 hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid,
24 generally all rights and power in, to, and over said land, whether herein expressed or
25 not, reasonably necessary or convenient to render beneficial and efficient the complete
26 enjoyment of the property and rights hereby expressly reserved."

27 * Sec. 3. AS 38.05.600(a) is amended to read:

28 (a) The commissioner may provide for the sale or lease of state land for
29 remote recreational cabin sites. Sales under this section shall be at fair market value
30 determined as of the time of entry by the department or by an appraiser from the
31 list of appraisers approved by the department. Land to be sold under this section

1 shall be surveyed before sale by the department or by a surveyor registered
 2 under AS 08.48. The appraisal and survey shall be completed within 12 months
 3 of entry. The [, AND THE] purchaser shall pay for the appraisal and survey or
 4 reimburse the state for the appraisal, survey, and platting costs for the recreational
 5 cabin site. Sales under this section may be at public or private sale.

6 * Sec. 4. AS 38.05.600 is amended by adding new subsections to read:

7 (d) Each year, subject to appropriation from the state land disposal income
 8 fund under AS 38.04.022, to implement this section, the commissioner shall

9 ~~*~~ (1) prepare a three-year schedule of proposed land offerings under this
 10 section identifying at least 300 parcels for disposal each year; and

11 (2) provide public notice of the proposed land offerings.

12 (e) The maximum number of staking authorizations the department may issue
 13 at a public offering for a designated staking area is equal to twice the number of
 14 square miles in the designated staking area.

15 (f) The commissioner may solicit nominations each year from the public for
 16 areas to be offered for disposal under this program. The commissioner may add areas
 17 nominated by the public to the schedule prepared under (e) of this section if the land is
 18 classified for disposal and the disposal is consistent with other requirements of
 19 AS 38.04 and this chapter.

20 (g) A person may nominate a parcel for disposal under this section. If the
 21 person provides an affidavit to the commissioner showing at least three consecutive
 22 years of recreational use of the parcel by the person, ^{#2} or at least five years of use
 23 including two years of active mining under a mining claim, by the person immediately
 24 preceding the nomination, before offering the parcel for disposal to the public, the
 25 commissioner shall offer the parcel to the person nominating the parcel for disposal.
 26 If the commissioner accepts the nomination of a parcel for disposal, the commissioner
 27 may also provide for disposal of additional parcels in the surrounding area, subject to
 28 (f) of this section.

29 (h) A parcel sold under this section may not exceed two and one-half acres. A
 30 parcel sold under this section may include lake, river, or other navigable water
 31 frontage, subject to the following limitations:

1
2
3
4
5
6
7

(1) the lake, river, or other navigable water frontage must be at least 300 feet and may not exceed 400 feet;

(2) only one parcel with frontage on a lake may be sold under this section for each 25 acres of water of that lake; and

(3) a parcel sold under this section with frontage on a river must be located at least two meander miles from any other parcel with river frontage sold under this section.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 16, 2001

SUBJECT: Remote Recreation Cabin Site Purchase Program
(SSHB 232, Work Order No. 22-LS0791\O and \P)

TO: Representative Hugh Fate
Attn: Randy Clendaniel

FROM: Kathryn L. Kurtz *KK*
Legislative Counsel

Enclosed are two draft sponsor substitutes for HB 232. One exempts land sales under the program from the statutory public interest finding and notice requirements, but this version poses some constitutional issues. The other version provides for compliance with the constitution by keeping these sales under AS 38.05.035(e) and adjusting the timelines in the bill to accommodate those of the existing statute. If you want to take a different approach to meeting the constitutional requirements, let me know.

There are actually two provisions of the state constitution that relate to the public interest and land disposal. Article VIII, section 1, of the Constitution of the State of Alaska provides:

It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.

Article VIII, section 10, provides:

No disposals or leases of state lands, or interests therein, shall be made without prior public notice and other safeguards of the public interest as may be prescribed by law.

In addition, the common law public trust doctrine and AS 38.05.502 must be considered in relation to any land disposal program. The public trust doctrine is a common law principle under which it is recognized that government owes its citizens duties of care with respect to the management of land and natural resources held by the state in trust for the public benefit. See CWC Fisheries, Inc. v. Bunker, 755 P.2d 1115 (Alaska 1988) (applying doctrine in the context of tidelands).

Representative Huge Fate

April 16, 2001

Page 2

The \P draft, as you requested, makes AS 38.05.035(e) inapplicable to sales under the new cabin site purchase program. Although the bill mentions the public interest in AS 38.05.610(a), removing the program from AS 38.05.035(e) means it will be left up to the commissioner how and when to determine whether the sale is consistent with the public interest. This is constitutionally questionable, given the "prescribed by law" language in Article VIII, section 10.

The \O draft uses the AS 38.05.035(e) public notice and best interest finding process. That statute requires that a preliminary written finding be made available at least 180 days before the sale. I used 240 days as the maximum allowable period between receipt of application and issuance of a final opinion in the enclosed draft. Let me know if you would prefer a longer or shorter timeline.

KLK:jhb
01-039.jhb

Enclosures



The Division is the primary manager of the State of

Alaska's 150+ million acres of land holdings. We acquire land from the Federal government under various entitlements, such as the Alaska Statehood Act, plan for its use, and through that process classify the land for various uses.

The use of land and its resources is made available to the public through sale, lease and the issuance of permits. The state sells land, sand and gravel and other materials. Other lands are retained in state ownership, but access is provided through lease and issuance of permits to use land for recreation, commercial, and industrial purposes.

This Division performs other land related functions as well as selling, leasing and permitting use of lands. Additional functions include :

land conveyances to municipalities and individuals, establishment of boundaries of ownership for state land through survey, serves as the title agency for the state, and maintains all land records for the state.

In order to maintain public access to waterways, the division manages the navigability program to determine which of Alaska's thousands of rivers and lakes flow over land owned by the state and maintain the records related to these decisions. We also coordinate interdepartmental review of major development projects for private interests on a cost reimbursable basis.

Other facts about the Division:

Manages 88 million acres of upland on behalf of all Alaskans.

Manages 34 thousand miles of coastline and 65 million acres of tide, shore, and submerged lands.

Generates about \$9 million in revenue annually from land sales, and fees for permits, leases, material sales.

Has transferred 555,000 acres to private ownership since 1960.

Manages over 2.8 million acres in Public and Recreational Use lands such as Hatcher Pass and the six Recreation Rivers of the Susitna River Drainage.



Link to this Article

Bill allows land claims for cabins

April 07, 2001

By AMY DARLAND
For the News-Miner

Come July, "build lake front cabin" may be on to-do lists of Alaskans throughout the state.

House Bill 232, introduced Thursday by Rep. Hugh Fate, R-Fairbanks, would allow every Alaskan to stake a 2.5-acre claim to state land on which to build a recreational cabin.

"There are so many people in the state that have come up to me and said, 'Gee, I wish I could get a place on a lake or river, but they can't,' Fate said. "There is almost no place where a private citizen can actually get a piece of property that they can call their own. This bill is intended to make that possible."

The bill includes a section specifically prohibiting the sale of lands that are tied up by state, federal and Native claims. Land in state park units would be off limits.

Under the bill, prospective buyers would have to apply for purchase of property within 30 days of claiming the plot. Upon approval of the application, the individual would have 24 months to pay for a surveyor and a state-approved appraiser to evaluate the claim. If the land is deemed unencumbered and available for purchase, a deed would be issued within 30 days after payment of the purchase price of the parcel.

There are also limitations on sales of popular waterfront properties. The bill allows for only one plot of land on any lake front to be sold for every 10 acres of water.

In addition, river properties sold under those conditions must be at least two "meander miles," a distance measured by following the contour of the river, from any other stake sold under the bill.

The construction of a cabin is not required under the bill, but provisions were included to prevent overcrowding in waterfront areas, as has occurred in other state sales, Fate said. The limitations would prevent the recreational properties from being split into multiple properties, creating mini-subdivisions and thereby causing overcrowding.

Rep. Jeannette James, R-North Pole, said there have been problems with remote parcel claims in the past, but she doesn't think Fate's bill will necessarily encounter the same difficulties. She listed surveying inaccuracy as one of several past concerns.

Despite having positive thoughts about the proposal, the North Pole representative isn't immediately committing herself.

"I would resist saying that I would be a 'vote yes' until I see how public debate goes," James said. "But in general, I support the concept."

The bill was read in the House on Thursday and referred to the Resources and Finance committees. Fate is confident that the bill will emerge relatively unchanged.

"It will go to the Senate about like it is, I believe. I don't think (the Resource and Finance committees) will make substantive changes, but in this system you never know," Fate said Friday. " If they do make changes it will be for the better. Most people that I've shown the bill to down here seem to like it."

If approved by the House, Senate and Gov. Tony Knowles, the measure will take effect July 1, 2001.

Subject: Recreational Land for Alaskans

Date: Wed, 11 Apr 2001 23:16:53 -0800

From: Doug Fleming <tebay@alaska.net>

To: Representative Hugh Fate@legis.state.ak.us

RECEIVED

APR 13 2001

Dear Representative Fate;

I have been very pleased with your efforts toward making recreational land available for Alaskans, particularly since it moves away from the more recent "remote subdivision" approach. I have been a member of the Fairbanks community since 1987, when I relocated here from Maine to get involved with fisheries. Since that time I went through a Master's program in Fisheries at UAF, married my wife Margaret, have been raising our two sons Hugh and Ian, and have been working as a fishery biologist for ADF&G here in Fairbanks. We have a busy life here in Fairbanks, and feel that we'll probably continue to be here for the long haul. We avidly pursue outdoor activities with our two sons that include fishing, camping, hiking, boating, and hunting as they become older.

Since 1990 I have been interested in finding a little place in the woods, or along a river, or on a lake that we could build a cabin, but not in close proximity to others. Being a fishery biologist who gets around in our great state, it's easy for me to see that there certainly is enough land to allow Alaskans a more "Alaskan" option such as what you are supporting. I don't think that enough people here realize how big Alaska is, and how much land we truly have. I know other people too have moved from other rural places where people's homes and properties were not confined to 2 acre lots in subdivisions. I fully understand the economics for this in residential areas, but have not pursued purchasing recreational land in the most recent DNR system because of the irony associated with it when supposedly "remote". Some people say to me, "well you just should have gotten here earlier when a guy could go stake a piece of land...". I don't know about yourself, but I got here in Alaska as soon as it was feasible. I spent many nights reading about the adventurers in the North Country, such as in Sig Olsens books.

Now that I have a family who really lives in Alaska for the outdoors, I am really looking forward to my children being able to pass stories on about how it was to have a cabin out in the toolies, miles from anyone. I hope that you receive other support from other folks like me, that work hard to stay here for the long haul. I am sure that some people will nit-pick the idea and others will oppose the idea because the threat that someone might be interested in "their backyards". Anyway, I hope that your bill moves forward without problems.

Please feel free to contact me with updates or if I can be of any help-
Sincerely,

Douglas Fleming
1962 Red Leaf Rd.
Fairbanks, 99709

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services
Department of Education & Early Development
State of Alaska

RECEIVED
APR 13 2001

Subject: Recreational Land for Alaskans
Date: Wed, 11 Apr 2001 23:16:53 -0800
From: Doug Fleming <tebay@alaska.net>
To: Representative_Hugh_Fate@legis.state.ak.us

Dear Representative Fate;

I have been very pleased with your efforts toward making recreational land available for Alaskans, particularly since it moves away from the more recent "remote subdivision" approach. I have been a member of the Fairbanks community since 1987, when I relocated here from Maine to get involved with fisheries. Since that time I went through a Master's program in Fisheries at UAF, married my wife Margaret, have been raising our two sons Hugh and Ian, and have been working as a fishery biologist for ADF&G here in Fairbanks. We have a busy life here in Fairbanks, and feel that we'll probably continue to be here for the long haul. We avidly pursue outdoor activities with our two sons that include fishing, camping, hiking, boating, and hunting as they become older.

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Douglas Fleming
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LEGISLATIVE RESEARCH REPORT

JANUARY 18, 2001



REPORT NUMBER 01.061

PROCEDURES FOR ACQUIRING STATE LAND

PREPARED FOR REPRESENTATIVE HUGH FATE

BY KEN ALPER, LEGISLATIVE ANALYST

You asked what laws apply when private citizens acquire public state land. You specifically wanted to know if statutes allow an individual to acquire state land without going through the traditional lottery or auction processes. After a brief summary, we describe the various land disposal programs, and then list the exceptions under which land can be transferred outside the programs.

SUMMARY

Statutes require the commissioner of the Department of Natural Resources (DNR) to classify all state-owned land (AS 38.04.060). Land classified as "settlement" is eligible for sale to the public through one of the programs administered by the DNR Division of Land, Mining, and Water (AS 38.04.070).¹ Land classified as "agriculture" is similarly eligible through programs administered by the DNR Division of Agriculture (AS 38.05.059).² The principal source of state land conveyed to private ownership is the Division of Land, Mining, and Water.³

¹ Through administrative reorganization, the DNR has combined the former Division of Lands and Division of Mining and Water. Statutory powers of the Director of the Division of Lands have been reassigned to the Deputy Commissioner (of DNR) for Operations, who has been given the additional title "Director of Lands" (AS 38.05, revisor's note).

² According to Mary Kaye Hession, regulation specialist with the Division of Land, Mining, and Water, agricultural land in most cases is sold with deed restrictions requiring agricultural use. Exceptions include land that is pledged as collateral under Division of Agriculture loan programs and is subsequently obtained through foreclosure.

³ Other state agencies that sell land are the Alaska Mental Health Trust and the University of Alaska. Both of these agencies maintain land inventories for the benefit of their respective clients. Both periodically conduct land sales. The Mental Health Trust has 52 unsold parcels from their 2000 land sale, which will be offered over the counter beginning February 15, 2001, at the 12th floor conference room, 550 West 7th Ave., Anchorage. Interested persons should call Alaska Legal Copy at 908-272-1265 and ask for Jenai Jent. The University also has parcels currently available over the counter. Interested persons should call the university's Statewide Office of Land Management at 907-786-7766.

According to Ron Schonenbach, Southeast Regional Manager for the Division of Land, Mining, and Water, all land that is offered must be placed into one of the DNR's land programs. Mr. Schonenbach reports that the state does not offer methods that bypass standard procedures. As a public body, the DNR is required to administer its programs competitively in a manner that equally benefits all Alaskans, and to make all land offerings available to the general public.

The only currently active DNR land acquisition program is direct sale through a sealed bid auction. The sale program can also operate via a lottery. Although statutes remain in effect for the homesite (AS 38.08) and homestead (AS 38.09) programs, no land has been offered in recent years and DNR officials report no intention to do so.⁴ A new program very different from the traditional sale program will offer land for remote recreational cabins after regulations take effect on February 9, 2001.

According to the web site of the Division of Land, Mining, and Water, an individual can request, in writing, that a particular parcel be considered for a land offering. There are no guarantees, however, that the parcel will be offered.

DIRECT SALE PROGRAMS

Land offered for sale by the Division of Land, Mining, and Water goes through an extensive preliminary process. According to Mr. Schonenbach, the Division first ensures that the land proposed for offering has been classified as "settlement," rather than recreation, wildlife habitat, or other categories. Division employees look for parcels that can be subdivided into a group of building lots. Officials seek input from the local community, often with public hearings well in advance of the offering. After advertising the proposed sale and a comment period, there is a final determination. If it is found that the land should be sold, the state pays for an appraisal and subdivision. The Division publishes an annual catalog that lists the subdivided lots offered for sale.⁵ At the commissioner's discretion, the lots can be offered via sealed bid auction (AS 38.05.045-055), or via lottery (AS 38.05.057). Recent offerings have been auctions.

Land that is offered but not purchased through the auction or lottery process becomes available "over the counter" at the three regional DNR offices. Land remaining from the 2000 offering went on sale Tuesday, January 9, 2001. Any Alaskan can go to the appropriate regional office, and purchase any offered parcel for the minimum bid amount.

HOMESTEAD AND HOMESITE PROGRAMS

Homestead land is substantively different from land sold through auction or lottery. A homestead permit entitles an applicant to enter an area and stake, occupy, and improve the land (AS 38.09.020). Typically the DNR will commission a survey of the entire homestead area in advance of the offering, and the homesteaders are responsible for surveying their individual parcels. Homestead parcels have a maximum size of 40 acres, or 160 acres if the land is agricultural (AS 38.09.010(f)). If a homesteader meets statutory criteria that include living on the property for at

⁴ This policy is confirmed by both Mr. Schonenbach and the "frequently asked questions" section of the Division of Land, Mining, and Water's web site (www.dnr.state.ak.us/land/disposals.htm).

⁵ The most recent version was titled "2000 Alaska State Land Offering." Copies are available for \$7 at DNR public information centers, and on the internet at www.dnr.state.ak.us/land.

least 25 months, title to the land is granted via a patent issued by the commissioner. In cases where the "proving up" requirements are not met, a homesteader retains the right to purchase the land at fair market value.

Homesites are parcels of five acres or less, that tend to be in less remote areas than homesteads. The state plats and surveys homesite land before permits are granted. A homesite permit holder who meets certain statutory criteria, including erecting a dwelling and reimbursing the state for the cost of survey and platting, is granted a patent for the land (AS 38.08.060). A participant who cannot meet all requirements may buy the land outright for fair market value.

The DNR has not offered land under either of these programs for several years. According to Kathy Means, natural resources officer with the Division of Lands, Mining, and Water, only about ten percent of all participants successfully completed the requirements of the homesteading program.⁶ Also, the programs are expensive to administer and produce little revenue. It is particularly expensive to send inspectors to remote locations to ensure that participants meet the terms of the programs.

REMOTE RECREATIONAL CABIN PROGRAM

In 1997, the legislature passed a law allowing for the sale or lease of remote recreational cabin sites (AS 38.05.600). New regulations required by this law will take effect on February 9, 2001. According to Mary Kaye Hession, regulations specialist with the Division of Lands, Mining, and Water, this will be the first time since 1987 that land will be offered "open to entry," in advance of surveying, subdivision, and appraisal. Parcels placed into this program will undergo a planning process with the local jurisdiction to determine the land's capacity for building and for supporting septic systems.

According to Ms. Hession, the Division will select an area for the remote cabin program, with a maximum number of potential lots. The Division expects there will be 10 to 20 lots in a typical remote cabin area. Individuals will sign up for the offering, and if more people apply than there are lots available, a lottery will determine the winners. On the appointed day, the winners will physically enter the land and compete to stake their claims, with a minimum lot size of 5 acres and a maximum of 20 acres. They then must return to the DNR office and register the approximate boundaries of their lots. For the first three years, program participants will make nominal lease payments to the Division, plus quarterly survey deposits. The Division will hold this deposit money, and after three years will commission a survey of all the parcels, plus an appraisal. The leaseholders will then be able to purchase their lots for fair market value. Under this program, unlike the homesite and homestead programs, there is no requirement to build on the land.

EXCEPTIONS

Mr. Schneidenbach identified those purposes for which the DNR may convey land outside the procedures of the land programs. Exceptions are listed in the statutes among the powers and duties of the director of lands, and may be allowed for the following purposes:

⁶ Personal communication with Legislative Research Services staff for prior research, January 14, 2000.

- ◆ To correct errors or omissions of a state or federal administrative agency;
- ◆ To make remedy to persons who show bona fide improvement to state land and in good faith sought to obtain title but who through the error or omission of others were denied title;
- ◆ To avoid injustice to a person (or his heirs) who used and made improvements to land before January 3, 1959;
- ◆ To convey to an adjoining landowner for fair market value a remnant of land considered unmanageable, or a parcel created by a highway right-of-way, or a parcel created by the vacation of a state-owned right-of-way; and
- ◆ To negotiate the sale of land at fair market value to a person who has acquired from another state agency either rights to improvements on the land, or a lease on the land itself.⁷

I hope you find this information useful. Please do not hesitate to contact us if you have questions or need additional information.

⁷ AS 38.05.035(b).

22-LS0791\T
Kurtz
3/15/02

CS FOR HOUSE BILL NO. 232()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES FATE, Wilson, Foster

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to the disposal of state land by lottery; and relating to sale or lease of
2 remote recreational cabin sites."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. AS 38.05.057(a) is amended to read:

5 (a) The commissioner may dispose of land, including land limited to use for
6 agricultural purposes, by lottery. The purchase price of land sold by lottery shall be
7 the fair market value of the land as determined by the commissioner. The
8 commissioner may sell land by lottery for less than the fair market value of the land on
9 a determination that scarcity of land for private use in the area of the land to be sold
10 has resulted in unrealistic land values. The lottery shall be conducted in public by the
11 commissioner. A purchaser selected by lot shall deposit an amount equal to 20 [FIVE]
12 percent of the purchase price within 30 days after receiving notification of the
13 selection.

14 * Sec. 2. AS 38.05.125(a) is amended to read:

1 (a) Each contract for the sale, lease, or grant of state land, and each deed to
2 state land, properties, or interest in state land, made under AS 38.05.045 - 38.05.120,
3 38.05.321, 38.05.600, 38.05.810 - 38.05.825, AS 38.08, or AS 38.50, except as
4 provided in AS 38.50.050, is subject to the following reservations: "The party of the
5 first part, Alaska, hereby expressly saves, excepts, and reserves out of the grant hereby
6 made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores,
7 minerals, fissionable materials, geothermal resources, and fossils of every name, kind,
8 or description, and which may be in or upon said land above described, or any part
9 thereof, and the right to explore the same for such oils, gases, coal, ores, minerals,
10 fissionable materials, geothermal resources, and fossils, and it also hereby expressly
11 saves and reserves out of the grant hereby made, unto itself, its lessees, successors,
12 and assigns forever, the right to enter by itself, its or their agents, attorneys, and
13 servants upon said land, or any part or parts thereof, at any and all times for the
14 purpose of opening, developing, drilling, and working mines or wells on these or other
15 land and taking out and removing therefrom all such oils, gases, coal, ores, minerals,
16 fissionable materials, geothermal resources, and fossils, and to that end it further
17 expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and
18 assigns forever, the right by its or their agents, servants, and attorneys at any and all
19 times to erect, construct, maintain, and use all such buildings, machinery, roads,
20 pipelines, powerlines, and railroads, sink such shafts, drill such wells, remove such
21 soil, and to remain on said land or any part thereof for the foregoing purposes and to
22 occupy as much of said land as may be necessary or convenient for such purposes
23 hereby expressly reserving to itself, its lessees, successors, and assigns, as aforesaid,
24 generally all rights and power in, to, and over said land, whether herein expressed or
25 not, reasonably necessary or convenient to render beneficial and efficient the complete
26 enjoyment of the property and rights hereby expressly reserved."

27 * Sec. 3. AS 38.05.600(a) is amended to read:

28 (a) The commissioner may provide for the sale or lease of state land for
29 remote recreational cabin sites. Sales under this section shall be at fair market value
30 determined as of the time of entry by the department or by an appraiser from the
31 list of appraisers approved by the department. Land to be sold under this section

1 shall be surveyed before sale by the department or by a surveyor registered
2 under AS 08.48. The appraisal and survey shall be completed within 12 months
3 of entry. The [, AND THE] purchaser shall pay for the appraisal, survey, and
4 platting or reimburse the state for the appraisal, survey, and platting costs for the
5 recreational cabin site. Sales under this section may be at public or private sale.

6 * Sec. 4. AS 38.05.600 is amended by adding new subsections to read:

7 (d) Each year, subject to appropriation from the state land disposal income
8 fund under AS 38.04.022, to implement this section, the commissioner shall

9 (1) prepare a three-year schedule of proposed land offerings under this
10 section identifying at least 300 parcels for disposal each year; and

11 (2) provide public notice of the proposed land offerings.

12 (e) The maximum number of staking authorizations the department may issue
13 at a public offering for a designated staking area is equal to twice the number of
14 square miles in the designated staking area.

15 (f) The commissioner may solicit nominations each year from the public for
16 areas to be offered for disposal under this program. The commissioner may add areas
17 nominated by the public to the schedule prepared under (e) of this section if the land is
18 classified for disposal and the disposal is consistent with other requirements of
19 AS 38.04 and this chapter.

20 (g) A person may nominate a parcel for disposal under this section. If the
21 person provides an affidavit to the commissioner showing at least three consecutive
22 years of recreational use of the parcel by the person, or at least five years of use
23 including two years of active mining under a mining claim, by the person immediately
24 preceding the nomination before offering the parcel for disposal to the public, the
25 commissioner may offer the parcel to the person nominating the parcel for disposal. If
26 the commissioner accepts the nomination of a parcel for disposal, the commissioner
27 may also provide for disposal of additional parcels in the surrounding area, subject to
28 (f) of this section.

29 (h) In addition to the requirements of AS 38.05.065, in a contract for sale of a
30 parcel under this section, the purchaser shall agree to refrain from making any
31 permanent improvements to the parcel until at least half of the total purchase price has

1

been paid.

Representative Fate's Proposed Amendments to House Bill 232:

- 1) page 2 line 4: before the word river, add the words "a navigable"
- 2) page 2 line 10: before the word river, add the word "navigable"
- 3) page 2 line 13: add a new subsection under (c) to read:
 - (4) A parcel not described above must have at least one (1) mile of separation from private land in all directions.
- 4) page 2 line 27: add two new subsections after (e) to read:
 - (f) No permanent man made object may be placed on the ground after survey and appraisal and before 50% of the indebtedness to the state has been paid by the applicant.
 - (g) A parcel may be grandfathered for purposes of staking for acquisition if proof of occupancy of that parcel for 3 years accompanies the application.